

REMARKS

In response to the Office Action dated July 6, 2005, please consider the following remarks made in a good faith attempt to move prosecution of this application forward to a proper allowance of the claims.

Please note that any and all fees associated with this response, including any applicable extension fees under 37 C.F.R. 1.136, and any fees for newly presented claims, may be charged to the deposit account of the undersigned, **Account No. 50-0894**.

Applicant here requests such extensions under 37 C.F.R. 1.136 as may be necessary to render this response timely.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claim 1, drawn to a stethoscope cleansing unit, classified in class 422, subclass 292.
- II. Claim 2, drawn to a business method for advertising medical products, classified in class 283, subclass 56.

In response to the Restriction requirement issued by Examiner on July 6, 2005, Applicant hereby elects Group II.

Claim Rejections

Claim 2 currently stands rejected under 35 U.S.C. 103(a) as being unpatentable over Guim (3530261) in view of Lake, Jr. et al. (2004/0258560 A1). Applicant respectfully

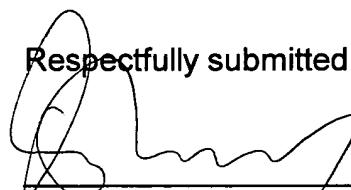
submits that such rejection is inappropriate. More specifically, an unobvious limitation recited in claim 2 is not taught or suggested by Guim or Lake, Jr. et al. Examiner remarks that Guim discloses “a holding chamber (1) with a reversibly opening chamber lid member (2), said holding chamber (1) with an inner core (10) comprising a wicking member (sponge) ... and proximally up through an opening formed by sidewall (9) in said reversibly opening chamber lid member (2) ... and a telephone receiving member (sidewall 9) attached to said holding chamber lid member allowing access to proximal end of said wicking member.” *Office Action*, page 4. However, Applicant fails to find, in Guim, a wicking member extending “proximally up through opening in said reversibly opening chamber lid member” as claimed in the original application. Nor does Guim disclose any access to the proximal end of the wicking member as recited in claim 2. In fact, Guim teaches an applicator cover with an “end closure” with a plastic applicator sponge attached to and supported by the cover for contacting a cake of disinfecting material at the distal end of the applicator sponge. *Guim*, column 2, lines 21-28. Thus it would be impossible for the wicking member to extend through the chamber lid member and allow access of the proximal end of the wicking member to the telephone receiver. Furthermore, Examiner remarks that Lake, Jr. et al. discloses “a stethoscope-receiving member (44) attached to said holding chamber lid member, allowing access to proximal end of said wicking member.” *Office Action*, page 4. However, Lake, Jr. et al. clearly teaches the stethoscope-receiving member (44) attached to the holding chamber (14) rather than the chamber lid member (30). *Lake, Jr. et al.*, fig. 2. To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*,

490 F.2d 981, 180 USPQ 580 (CCPA 1974); MPEP 2143.03. Therefore, since the claim limitations of the wicking member extending proximally up through the opening in the reversibly opening chamber lid member and a stethoscope-receiving member allowing access to proximal end of the wicking member are neither taught nor suggested by Guim nor Lake, Jr. et al., a *prima facie* case of obviousness has not been established.

Additionally, Examiner recites that “it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the sterilizing device of Guim and incorporate the steps of adding a marketers logo and also position the device for viewing by patients and medical personnel as taught by Lake, Jr. et al. in order to clearly identify the product with the logo...” *Office Action*, page 5. However, Examiner recites no suggestion or motivation for such modifications. In order to establish *prima facie* obviousness, there must be some suggestion or motivation either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. MPEP 2143. Thus, since a *prima facie* case of obviousness has not been established, a rejection under 35 U.S.C. 103(a) is inappropriate.

Applicant respectfully submits, that in view of the preceding, Claim 2 is in condition for allowance. Reconsideration and withdrawal of the rejections are hereby requested, and allowance of Claim 2 at an early date is solicited. If impediments to allowance of the claims remain and a telephone conference between the undersigned and the examiner would help remove such impediments in the opinion of the Examiner, a telephone conference is respectfully requested.

Respectfully submitted,



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